



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twenty Ninth day of November Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.7672, 7674 and 7675 of 2019

IN

CRL OP(MD) No.16239, 16238 and 16240 of 2018

M.VISHNU

... PETITIONER / PETITIONER / ACCUSED No.3
in all petitions

Vs

THE SUB INSPECTOR OF POLICE,
KALLIKUDI POLICE STATION, KALLIKUDI,
MADURAI DISTRICT.

... 1st RESPONDENT/1 st RESPONDENT/
COMPLAINANT
in all petitions

B.KARUPPANNAN

... 2nd RESPONDENT/2nd RESPONDENT/
DEFACTO COMPLAINANT
in CRL MP(MD)No.7672 of 2019 in
CRL OP(MD)No. 16239 of 2018

S.CHANDRASEKHER

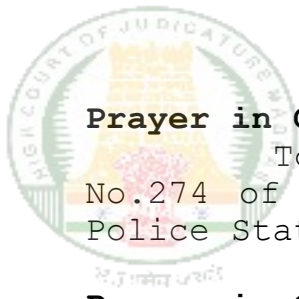
... 2nd RESPONDENT/2nd RESPONDENT/
DEFACTO COMPLAINANT
in CRL MP(MD)No.7674 of 2019 in
CRL OP(MD)No. 16238 of 2018

K.ARJUNAN

... 2nd RESPONDENT/2nd RESPONDENT/
DEFACTO COMPLAINANT
in CRL MP(MD)No.7675 of 2019 in
CRL OP(MD)No. 16240 of 2018

Prayer in CRL MP(MD). 7672/ 2019 in CRL OP(MD). 16239/ 2019 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to reopen this CRL.OP(MD) No.16239 of 2018 against FIR in Crime No.275 of 2013 on the file of Sub Inspector of Police, Kallikudi Police station, Madurai district against the petitioner.



Prayer in CRL MP(MD) . 7674/ 2019 in CRL OP(MD) . 16238/ 2019 :

To reopen this CRL.OP.No.16238 of 2018 against FIR in Crime No.274 of 2013 on the file of Sub Inspector of Police, Kallikudi Police Station, Madurai District against the petitioner

Prayer in CRL MP(MD) . 7675/ 2019 in CRL OP(MD) . 16240/ 2019 :

To reopen this CRL.OP.No.16240 of 2018 against FIR in Crime No.276 of 2013 on the file of Sub Inspector of Police, Kallikudi Police Station, Madurai District against the petitioner

Prayer in CRL OP(MD) . 16239/ 2019 :

To direct the learned Additional Mahila Court, Madurai, to expediate the trial in C.C.No.135 of 2016 pending on the file of the learned Additional Mahila Court, Madurai and dispose the same within the time fixed by Hon`ble Court

Prayer in CRL OP(MD) . 16238/ 2019 :

For Anticipatory Bail in Crime No.436 of 2019 on the file of the respondent police

Prayer in CRL OP(MD) . 16240/ 2019 :

For Anticipatory Bail in Crime No.359 of 2019 on the file of the respondent

Order: These petitions coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. G. CENIL, Advocate for the petitioner in all petitions and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor for R1 in all petitions the court made the following order:-

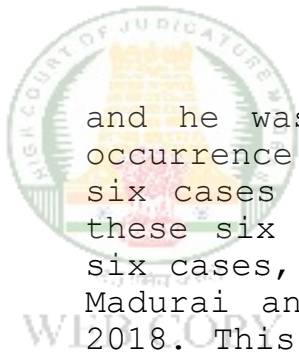
The matter is today posted under the caption ''to reopen the case and recall the order passed by this Court on 11.09.2018''.

2.Under normal circumstances, once an order is passed under Section 482 of Cr.P.C, this Court cannot review or recall the order, since Section 362 of Cr.P.C will equally apply to these proceedings also and there is a bar under the Code of Criminal Procedure.

3.This position has been made clear by the Honourable Supreme Court in ***State of Madhya Pradesh .vs. Mansingh in Crl.A.No.410 of 2011, dated 4.11.2019.***

4.The order was passed based on the representation made by the respondent/Police that final report has already been filed by the Police in all the cases before the Juvenile Justice Board at Madurai.

5.The learned counsel for the Petitioner brought to the notice of this Court that the Petitioner was falsely roped in this case



and he was a minor, aged about 17 years at the time of alleged occurrence. The learned counsel submitted that there were totally six cases that were registered by the respondent Police and in all these six cases, the Petitioner was made as an accused. Out of the six cases, final report was filed before the Juvenile Justice Board, Madurai and the same was taken on file in J.C.Nos.142 to 144 of 2018. This became the subject-matter of challenge before this Court in Crl.O.P(MD)Nos.3356, 3436 and 3437 of 2019 and this Court passed the following order:

'2.All the Criminal Original Petitions are filed to quash the J.C.Nos.144, 143 and 142 of 2018, pending on the file of the Juvenile Justice Board, Madurai District. The case of the Petitioner is that the Petitioner's parents have entered in Job racketing and have been collecting amounts. The allegation is that some amounts have been given to the Petitioner for routing the same to his parents. Admittedly, the Petitioner was a minor at that time. In these circumstances, the Petitioner has come forward with these Petitions to quash the aforesaid three cases.

3.Heard the learned counsel appearing for the Petitioner and the learned Government Advocate(Crl.Side) appearing for the first respondent in all the cases.

4.It is not the case of the prosecution that the Petitioner has made any false representation or had obtained amounts from the de facto complainants for his benefits. Even going by the prosecution versions, he is appeared to have been used as a tool by his parents to receive the amounts. Though the prosecution alleged that the Petitioner actively participated in the commission of offence, the poor boy has been used only as puppet and there is no specification of his act.

5.Further, the learned counsel for the Petitioner submitted that the commission of offences in J.C.Nos.144 and 143 of 2018 said to have been occurred either on 04.05.2012 and for the period from 04.05.2012 to 26.10.2012 respectively. But the Petitioner went to Chennai to appear for Medical Entrance Test, that was took place on 06.05.2012. Secondly, so far as J.C.No.142 of 2018 is concerned, the offence is said to have been occurred from 20.11.202 to 15.1.2013. The learned counsel for the Petitioner submitted that the Petitioner had by then travelled to China to prosecute his studies and the Passport says that he left India on 4.11.2012 itself. The Passport, which has been in the custody of the Juvenile Justice Board, is made available before this Court, by the Registry of this Court. As observed, the Petitioner has been granted visa to enter China before 23.11.2012.



6.Looking from every conceivable angle, this Court finds it is a case where the Petitioner either could not be present on the dates on which he is said to have been present, and even if the prosecution case is to be trusted still no offence is made out against the Petitioner.

7.Hence, all these Criminal Original Petitions are allowed and J.C.Nos.144, 143 and 142 of 2018, pending on the file of the Juvenile Justice Board, Madurai District, against the Petitioner are quashed. In view of the order passed in the Criminal Original Petitions, the Writ Petition is also allowed. Consequently, connected Miscellaneous Petitions are closed.''

6.The learned counsel for the Petitioner submitted that the same reasoning that has been given by this Court, will apply to the remaining three cases also and therefore, this Court can take into consideration the above order and interfere with the three remaining cases also.

7.The learned Additional Public Prosecutor, on instructions, submitted that even though the respondent/Police had filed final report before the Juvenile Justice Board, Madurai in Crime Nos. 274, 275 and 276 of 2013, all the three reports have been returned for certain compliances.

8.This Court carefully went through the final reports that were filed by the respondent/Police before the Juvenile Justice Board. It is seen that there is absolutely no material against the Petitioner and the Petitioner has been used as a tool by his parents for receiving amount from third parties. The Petitioner who was a minor, did not understand the consequences of what he was doing, since he was impelled to act according to the directions given by his parents. That apart, the presence of the Petitioner at the time of alleged occurrence is also doubtful. In short, the reasoning given by this Court in the order referred supra, wherein, three other cases were quashed, will equally apply to the present case also. Therefore, this Court in order to secure the ends of justice, is using the extraordinary power under Section 482 of Cr.P.C to quash the remaining three cases also . The continuation of the criminal proceedings as against the Petitioner will have a very serious consequences on the very future of this petitioner.

9.The order passed by this Court in these Criminal Miscellaneous Petitions cannot be taken as a precedent in any other cases, since extraordinary situation that was prevailing in this case, made this Court to exercise its power under Section 482 of Cr.P.C.



10. In the result, the order passed by this Court dated 11.9.2018 is modified to the effect that FIR in Cr.Nos.274 of 2013, 275 of 2013 and 276 of 2013, pending on the file of the respondent Police is hereby quashed.

11. These Criminal Miscellaneous Petitions are disposed of accordingly.

sd/-
29/11/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE ADDITIONAL MAHILA COURT,
MADURAI,

2 THE SUB INSPECTOR OF POLICE,
KALLIKUDI POLICE STATION, KALLIKUDI, MADURAI DISTRICT.

+1. C.C. to M/S. G. CENIL Advocate SR.No.102745

ORDER
IN
CRL MP(MD) No.7672, 7674 and 7675 of 2019
IN
CRL OP(MD) No.16239, 16238 and 16240 of 2018
Date :29/11/2019

SDS/JC/SAR-2 (05.12.2019) 2P 4C